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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,257	04/01/2004	Pawel S. Veselov	SUNMP365	1784
32291 7590 12/26/2007 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			EXAMINER HILLERY, NATHAN	
			ART UNIT 2176	PAPER NUMBER
			MAIL DATE 12/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/817,257

Applicant(s)

VESELOV, PAWEL S.

Examiner

Nathan Hillery

Art Unit

2176

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1, 6, 8, 9 and 22-24.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**DOUG HUTTON  
SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 11/26/07 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that the provisional priority application of Betts et al. does not teach the limitation (p 6).

Specifically, Ort et al. teach that binding a schema means generating a set of Java classes that represents the schema. All JAXB implementations provide a tool called a binding compiler to bind a schema (p 3, Binding).

Betts et al. teach that one or more schema, may be automatically converted to one or more software data structures, for example Java classes. The resulting merged source file may be compiled (paragraph block 0052) and that a compiler may be used to compile the merged source file resulting in executable compiled merged code (paragraph block 0049).

The combined teachings meet the limitation of accessing a compiled document type definition (DTD) stored in the memory of the device, wherein the compiled DTD comprises executable program code configured to execute on the CPU and cause the CPU to receive the XML document as input, the compiled DTD being a self contained executable program that verifies whether the XML document conforms to a DTD that corresponds to the XML document, the compiled DTD being generated by parsing a DTD document to generate source code, the DTD document containing the DTD corresponding to the XML document, and compiling the source code to generate the compiled DTD.

Further, Ort et al. explicitly teach that the W3C XML Schema Language is not the only schema language. In fact, the XML specification describes document-type definitions (DTDs) as the way to express a schema. In addition, pre-release versions of the JAXB Reference Implementation worked only with DTDs -- that is, not with schemas written in the XML Schema Language. There are tools available to convert DTDs to the W3C XML Schema Language, so if you have DTD-based schemas that you used with an earlier version of the JAXB Reference Implementation, you can use these tools to convert the schemas to XML Schema Language (pp 2 and 3, Why W3C XML Schema Language? Box).

Support for the teaching in the provisional priority application may be found in the last two paragraphs of page 3 in the specification.

Applicant argues that Ort does not teach verifying the XML document by running the compiled DTD on the CPU, wherein the compiled DTD receives the XML document as input and generates one of a verified XML output or an error because verifying a document with JAXB is not the same as verifying the XML document by running the compiled DTD (p 7).

It should be noted that Ort et al. teach that binding a schema means generating a set of Java classes that represents the schema (p 3, Binding). Those compiled java classes are compiled schema, which are executed to validate the XML.

Applicant argues that Ort does not teach the limitations of claim 6 because the examiner relies on "the content objects of the classes that implement the interfaces" (p 7).

First, it should be noted that the applicant quotes Ort without citations. Second, the applicant is not appreciating the reference as a whole. For the record, the examiner does not solely rely on the snippet asserted by applicant.

Ort et al. teach that the content objects are instances of the classes produced by the binding compiler. The primary package, `javax.xml.bind`, contains classes and interfaces for performing operations such as validation (p 3, last paragraph - p4 first paragraph), which meet the limitation of compiling the source code with a verifier interface to generate the compiled DTD.

As for whether or not Ort's binding compiler is somehow different from a program compiler, this argument is moot, since program compiler is not claimed.

Applicant argues that Ort does not teach the limitations of claim 9 because Ort does not teach "inserted attribute" (p 8).

First it should be noted that the claim recites generating one of an error, a verified XML document, and the verified XML document with an inserted attribute. The office need not provide rationale for teaching an inserted attribute, since the Markush like language only requires generating one of the members of the group, in this case, generating an error.